

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SEAMUS HOLDINGS, S.A.,

Plaintiff,

v.

PROJECTOR S.A. AND TRISTAR PETROLEUM S.A.,

Defendants.

Case No. 08 Civ. 5117 (SHS)

**DECLARATION OF  
STANLEY MCDERMOTT III**

Stanley McDermott III, hereby declares in accordance with 28 U.S.C. § 1746 as follows:

1. I am a member of DLA Piper US LLP, counsel for defendant Tristar Petroleum S.A. (“Tristar”), and submit this Declaration to identify documents relevant to Tristar’s motion to vacate the maritime attachment at issue.
2. Appended Exhibit A is the charter addendum appended to the complaint of plaintiff Seamus Holdings S.A. (“Seamus”).
3. Appended Exhibit B is the message from Deutsche Bank reporting the attachment of \$220,050.29, part of an Electronic Fund Transfer (“EFT”) from the originator’s bank, Sumitomo Mitsui Banking Corp., to ING Bank in Geneva, Switzerland, the beneficiary’s bank (*i.e.*, Tristar’s bank).
4. Appended Exhibit C is an email message dated September 13, 2007 provided by counsel for Seamus. In this message E.A. Gibson Shipbrokers Ltd. (“Gibson”), the shipbrokers of Projector S.A. (“Projector”), evidently forwarded to Seamus’s brokers the quoted request from Projector.
5. Appended Exhibit D is an email message dated September 25, 2007 provided by counsel for Seamus, evidently reflecting an exchange between Projector’s and Seamus’s brokers.

6. Appended Exhibit E is an email message and attachment provided by Projector's New York counsel, Jack A. Greenbaum, Esq., of Blank Rome LLP, dated June 30, 2008, from Projector's Mr. Chris Manchett to Mr. Greenbaum, forwarding an email message dated June 24, 2008 from Projector's Mr. Franco Parloto to Gibson, requesting that Gibson send the referenced email and incorporated attachment to "Owners," *i.e.*, Seamus.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 30, 2008.

  
\_\_\_\_\_  
Stanley McDermott III

## **EXHIBIT A**

ORIGINAL

25<sup>th</sup> September 2007

M.T. "SCORPIOS"

ADDENDUM No.1 to the above Charter Party dated 2<sup>nd</sup> August 2007  
(hereinafter referred to as "the Charter Party") between SEAMUS HOLDINGS  
S.A. as OWNER and PROJECTOR S.A. OF BELIZE, as CHARTERER.

It is hereby mutually agreed to amend the Charterers style to read  
"TRISTAR PETROLEUM S.A.". Projector always to be responsible for the  
fulfilment of the Charter Party.

All other terms, conditions, exceptions and exemptions from liability of this  
Charter Party shall remain unaltered.

OWNERS

CHARTERERS

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## **EXHIBIT B**

Please be advised that our New York office was instructed by the **United States District Court for the Southern New York District**, to hold the amount of US\$220,050.29 from the full payment amount of US\$38,278,248.25 regarding: Tristar Petroleum SA

Below find, for your guidance, a copy of an advise sent to the paying bank Sumitomo Mitsui Banking Corp in New York:

**Outgoing Message - Message Text**

**Message Text**

WE REFER TO SSN 259302 DATED 06/09/08 VALUE 06/09/08 FOR USD 38,278,248.25 BY ORDER OF SUMITOMO MITSUI BA CORPORATION FAVOUR ING BELGIUM BRUSSELS GENEVA BRANCH, GENEVA, SWITZERLAND WITH DETAILS BBI=/REC/NODEDUCT /ACC/ APP: ARCADIA PET56 DD 080609 ROLEUM LTDBEN: TRISTAR PETROLEUM SAFROM: ASH SHIH PETROLEUM EXPORT TERMINAL YEMEN TO INDIA

PLEASE BE ADVISED THAT WE WERE UNABLE TO EXECUTE YOUR PAYMENT ORDER AS PER OUR LEGAL DEPARTMENT INSTRUCTIONS AND PER WRIT OF MARITIME ATTACHEMENT THAT WAS RECEIVED FROM UNITED STATES DISTRICT COURT THE SOUTHERN NEW YORK DISTRICT REQUESTING TO HOLD ALL PAYMENT REGARDING: TRISTAR PETROLEUM SA.

BE ADVISED THAT WE WERE INSTRUCTED TO HOLD ONLY USD220,050.29 FROM THE PRINCIPAL AMOUNT OF USD38,278,248.25. THE BALANCE OF USD 38,058,227.96 WAS EFFECTED AS ORGINALLY INSTRUCTED.

SHOULD YOUR WISH FOR A COPY OF THE COURT ORDER PLEASE ADVISE ME OF YOUR FAX NUMBER ALONG WITH AND INDIVIDUAL NAME TO SEND IT TOO AND OR THEIR EMAIL ADDRESS.

PLEASE AVOID DUPLICATION.

PLEASE QUOTE OUR REFERENCE NUMBER, 080609607126 IN ALL FUTURE CORRESPONDENCE RELATING TO THIS CASE.

REGARDS, MARCIA HANSON PAYMENT INVESTIGATIONS

From our side, we are also requesting for a copy of the court order and will revert on that.

Hope this info helps for the timebeing.

**Kind Regards / Mit freundlichen Grüßen**

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**Miguel Castilla**

CMFI Customer Service

Global Transaction Bank

Uraniastrasse 9

8023 Zurich / Switzerland

**Deutsche Bank [/] - Zurich**

Phone: +41 (0)44 227 3789

Fax : +41 (0)44 227 3069

Mobile : +41 (0)79 228 2844

[mailto : miguel.castilla@db.com](mailto:miguel.castilla@db.com)

## **EXHIBIT C**

Print Copy for : VARLAMOU DIMITRA

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SENT OK Inc.MSG.: 213147 Date: Thu 13/Sep/2007 00:29  
From: Operations//Gibson E.A. Tankers <"E A Gibson Ltd.-Tanker OPS (Page  
Steve)" <tops@eagibson.co.uk>>  
Subject: SCORPIOS / PROJECTOR \*\* MSG#:<149967>  
TO : <operations@imssa.gr>

Good day,

Pls note fllwg request to assign the c/p rcvd fm chrtrs

- qte

We need to assign this charter party to Tristar Petroleum SA.

Projector will remain responsible for all commercial aspects of the charter party.

Projector will make all payments and issue all instructions.

Please have owners confirm.

Best regards  
Richard Hutton  
Projector Services Ltd  
For Projector SA

- unq

Pls confirm

brgds  
Steve

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The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact

the sender and delete the material from any computer.

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E. A. Gibson Shipbrokers is a limited company registered in England and Wales.  
Reg No. 710161. Registered office: E. A. Gibson Shipbrokers Ltd, Audrey House,  
16-20 Ely Place, London. EC1P 1HP

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Sent with Danaos Info@Gate Communication Software

## **EXHIBIT D**

Print Copy for : VARLAMOU DIMITRA

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SENT OK Inc.MSG.: 223885 Date: Tue 25/Sep/2007 14:32  
From: Gibson E.A. Tankers <"E A Gibson Ltd. - Clean" <clean@eagibson.co.uk>>  
Subject: SCORPIOS - ADDENDUM# \*\* MSG#: <157177>  
TO : <paul@navig8group.com>, <TOPS@eagibson.co.uk>, <chartering@imssa.gr>

RE : SCORPIOS/PROJECTOR - C/P DATED 02 AUGUST 2007

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ADDENDUM NO 1 DATED 25 SEPT 2007

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IT IS HEREBY MUTUALLY AGREED TO AMMEND THE CHARTERER TO "TRISTAR PETROLEUM S.A,  
PROJECTOR ALWAYS TO BE RESPONSIBLE FOR THE FULFILLMENT OF THE CHARTERPARTY".

ALL OTHER DETAILS REMAIN.

REGARDS  
ADAM TOALE  
EA GIBSON SHIPBROKERS LTD  
+ 44 20 7667 1129

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16-20 Ely Place, London. EC1P 1HP

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Sent with Danaos Info@Gate Communication Software

## **EXHIBIT E**

**McDermott, Stanley**

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**Subject:** FW: m/t 'Scorpions' - c/p 02.08.07  
**Attachments:** 2786\_001.pdf

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**From:** Chris Manchett [mailto:ChrisManchett@projectorservices.co.uk]  
**Sent:** Monday, June 30, 2008 10:35 AM  
**To:** Greenbaum, Jack A.  
**Subject:** FW: m/t 'Scorpions' - c/p 02.08.07

Chris Manchett  
Projector Services Ltd.  
for and on behalf of Projector S.A.  
3rd Floor, Lansdowne House,  
57 Berkeley Square  
London W1J 6ER  
Tel: +44 20 7659 9500  
Fax: +44 20 7408 1793 / +44 20 7659 9501  
Cell: +44 7795 272 062  
Yahoo: chris\_manchett

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**From:** Franco Parlato  
**Sent:** 24 June 2008 18:17  
**To:** Chris Manchett  
**Subject:** FW: m/t 'Scorpions' - c/p 02.08.07

Herewith a copy of e-mail and invoice attachment sent to Owners

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**From:** Franco Parlato  
**Sent:** 24 June 2008 18:17  
**To:** 'claims@eagibson.co.uk'  
**Subject:** m/t 'Scorpions' - c/p 02.08.07

Keith/franco

Please forward to Owners

Re: 'Scorpions' -c/p dtd 02.08.07

We refer to Owner's e-mail of 12.06.08.

Please find attached our invoice no.2500U dated 23.06.08, for which you are already on notice for.  
We request that you pay this invoice by latest 25<sup>th</sup> June 2008. Should this invoice not be settled by this date  
we reserve our contractual rights to institute legal proceedings in the High Court of London.

We trust that you will pay accordingly and that no further actions will be necessary.

Please also confirm by way of return that as per addendum number 1 dtd 25<sup>TH</sup> September 2007  
of the c/p dtd 02<sup>nd</sup> August 2007 that full responsibility for the fulfilment of the charterparty  
is with Projector S.A. and that you will therefore terminate all proceedings for the fulfilment

of this c/p from Tristar Petroleum Limited.

b. rgds  
Projector Services Ltd  
For and on behalf Projector SA

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This message and any attachments (the "message") is intended solely for the addressees and is confidential. If you receive this message in error, please delete it immediately and notify the sender. Any use not in accord with its purpose, any dissemination or disclosure, either whole or partial, is prohibited except where formal approval has been granted. The opinions expressed within this email represent those of the individual and not necessarily those of Projector Services Limited. Projector Services Limited acts for and on behalf of Projector SA and its subsidiaries.

Projector Services Limited is a company registered in England and Wales with company number 05268448. The company's registered office is 3rd Floor Lansdowne House, 57 Berkeley Square, London, W1J 6ER. VAT No: 867 5340 94

**PROJECTOR S.A.**

Seamus Holding S.A.  
Liberia  
C/O Gibson EA Tankers

23 June 2008

**INVOICE SCORP/2500U****RE: M/T Scorpions C/P DTD 02 August 2007**

Reclaim of freight on balance not loaded by the vessel as  
per email dtd 12/06/08 3,249.217 mt ons at USD 28.38 / mt = USD 92,212.79

Loss of profit on sale contract as per email dtd 12/06/08

- sale price	usd 789.94 m/t CIF Lagos	
- purchase price	usd 665.75 FOB	
- freight cost	usd 28.38 m/t	
	= usd 95.81 m/t on 3,249.217 short lifted	= USD 311,307.48

Less balance undisputed demurrage as per email dtd 12/06/08 = USD 124,623.95

Balance due Projector S.A. = **USD 278,896.32**

Payment Due: PROMPT

Payment terms: prompt net cash by telegraphic transfer of  
immediately available federal funds to:

**Beneficiary Bank:**

HSBC Private Bank (Suisse) SA, Geneva  
SWIFT CODE: BLICCHGG  
A/C: IBAN CH8108689050912267274  
Beneficiary: Projector SA

**Correspondent Bank:**

HSBC Private Bank of New York, NY  
SWIFT CODE: MRMDUS33  
ABA: 021001088